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No. 02-1774

In the

Supreme Court of the United States

IN RE: FRED RIGGS, DONNA SINGER and AL DICKSON

ON PETITION FOR WRIT OF MANDAMUS AND PROHIBITION TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

PETITIONER'S RULE 15 SUPPLEMENTAL BRIEF

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NOW COME THE PETITIONERS, pursuant to United States Supreme Court rule 15.8 to file a supplemental brief "calling attention to new cases, new legislation, or other intervening matter not available at the time of the party's last filing", as follows:

BRIEF BACKGROUND

This case involves this Court enforcing Navajo Court orders under 28 U.S.C. 1738 full faith and credit, against all respondents as listed in the petition, for Navajo law violations, harming two Navajo enrolled members and the spouse of a Navajo enrolled member, within Navajo borders as defined by Congress in 18 U.S.C. 1151 and Navajo law. Respondents stipulated to Navajo jurisdiction by filing Navajo counterclaims, thus waiving any immunity if any existed, never exhausted Navajo Court remedies, waiving them, or filed a cross-petition for relief here or in federal court below. It is a simple matter of enforcement..... except in 2001, *Nevada v. Hicks*, 2001 U.S. LEXIS 4669, 533 U.S. 353, "[t]he majority's sweeping opinion, without cause, undermines the authority of tribes to "'make their own laws and be ruled by them'" (LEXIS *59. 85 J. O'Connor, Breyer, Stevens concurrence) undermined economic development, business and government to government relations, and destroyed internal governance to the point that Indian Courts if they adhere to Supreme Court law MUST distribute justice based upon race, annihilating 25 U.S.C. 1302. [1]

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[1] If two Navajo members are civilly assaulted identically, under Hicks, only the Navajo member with the Navajo assailant gets relief under Navajo law. The Congressionally mandated equal protection express divestiture of Indian Nations to discriminate becomes obsolete, as well as, the Navajo Nation Bill of Rights and all laws enacted for Navajo Courts by the Navajo Nation that traditionally values equality before their courts of 'persons' consistent with 25 U.S.C. 1302.

INTERVENING MATTERS NOT AVAILABLE AT THE TIME OF THE PETITIONERS' LAST FILING

After this case's last filing, the Solicitor General's office filed a reply brief on September 10, 2003 in *U.S. v. Lara*, Supreme Court docket no. 03-107. The Navajo petitioners here agree with and adopt the following Solicitor General's reply's assertions that 1) the Indian Civil Right Act (ICRA) provide mandates of equal protection within Indian Nation Courts[2]; 2) any defendant believing there is a denial of rights "may seek relief in tribal court itself" (Lara reply brief) which these respondents, including Truck and Mr. Ickes, failed to exhaust; 3) the House Committee confirms that Congress recognizes exercise of Indian Nation Court authority is one of inherent sovereignty [3]; 4) often the federal and state courts lack the resources to hear misdemeanor or civil Indian law questions that are required to be addressed for the security of the community (id.); and 5) the question of the root authority of Indian Nation Courts and thus this Court's Article III authority is ripe for resolution at this time [4].

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[2] "The Indian Civil Rights Act includes most of the specific protections of the Fourth, Fifth, Sixth, and Eighth Amendments, *as well as more general protections against denial of equal protection of tribal law* and against deprivation of liberty or property without due process of law. See 25 U.S.C. 1302."
Lara, reply brief.

[3] "The House Committee Report confirms that the amendment "is not a federal delegation of this jurisdiction but a clarification of the status of tribes as domestic dependent nations." H.R. Rep. No. 61. 102d Cong., 1st Sess. 7 (1991); see S. Rep. No. 168, 102d Cong., 1st Sess 4 (1991) (describing amendment as "recogniz[ing] and reaffirm[ing] the inherent authority of tribal governments to exercise criminal jurisdiction over all Indians"); H.R. Conf. Rep. No. 261, 102d Cong., 1st Sess. 3 (1991) (similar)."
Lara, reply brief

[4] "Here, because the Eighth and Ninth Circuits both reviewed the question [of Indian Court authority being inherent or a Congressional delegation] en banc, 22 appellate judges have had the

NEW DISTRICT COURT SPLIT
ON TRIBAL AUTHORITY

Two district courts are split over this same question of tribal taxing authority over non-Indians within 18 U.S.C. 1151 boundaries, based upon whether a Tribe retains inherent authority to tax or must have Congressionally delegated authority to tax. ***Reservation Telephone Cooperative v. Henry*** 2003 WL 22015786, Docket No. A4-02-121, A4-02-126 United States District Court, D. North Dakota, August 26, 2003 (no power to tax) and ***State v. Mineta,*** 2003 WL 21999399, Docket No. CIV. 02-3034, 2003 D.S.D. 16 United States District Court, D. South Dakota, August 21, 2003 (Secretary supports TERO tax).

NEWS RELEASES AND NEW REPORTS AS
INTERVENING EVENTS

On September 15, 2003, associated press, released survey results from a Utah American Indian/Alaska Native Education State Plan Advisory Committee report showing Utah Indian children lag behind 6 other states in education. The report found that in Utah "Indian people are still suffering from and have not healed from the North American conquest, nor the violent struggle to settle Utah, predominantly by members of (The Church of Jesus Christ of Latter-day Saints)." http://www.azcentral.com/news/articles/0915indianeduc

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opportunity to consider it, thereby assuring that the arguments on both sides have been fully explored. Those two Circuits, moreover, contain more than 80% of the recognized Tribes in the United States,1 thereby making prompt resolution of the conflict particularly appropriate."

Lara, reply brief

An excellent resource for Article III and Indian Nation authority is the United States Commission on Civil Rights Staff Memorandum on Constitutional Status of American Indians 1973, http://www.cwis.org/fwdp/Americas/civil.htm .

ation-ON.html The report found Utah Indian children suffer usually through invidious stereotyping and cultural insensitivity and history books with limited Indian history. This case exemplifies this reports' findings, by evidencing the respondents' callous racially intentionally hateful acts and attitudes toward the Petitioners, Navajo diabetic patients they intentionally drove from health care, and Navajo Court. These vicious attitudes permeate San Juan County, harming everyone, and retarding Navajo ability to enact and enforce their laws equally. Federal Court recalcitrance in enforcing the orders only magnifies the racially invidious harms and sets an extraordinarily tragic precedence for all federal courts in the future.

RECENT LEGISLATION

Several new acts involve inherent sovereignty. (1) On or about October 22, 2003 the Tribal Self Governance Act Amendments of 2003, are to have a legislative hearing (see the Senate Indian Affairs homepage). (2) Notably, 25 CFR 1000.4 for 2003 constitutes the funding agreements for the 1994 Tribal Self Governance Act and reiterates the findings that Indian Nations are entitled to self government, *flowing from inherent sovereignty.* Id. (3) S. 1542 Tribal Economic Enhancement Act of 2003 Sec. 2 Findings. (4) On September 10, 2003 executive comment was invited for S. 523. Senate Bill 523 addresses Indian sovereignty by amending the 1934 reorganization act as follows:

> `(1) each Indian tribe shall retain inherent sovereign power to adopt governing documents under procedures other than those specified in this section; and
>
> `(2) nothing in this Act invalidates any constitution or other governing document adopted by an Indian tribe after June 18, 1934, in accordance with the authority described in paragraph (1).'."

S.523 **Native American Technical Corrections Act of 2003 (Referred to House Committee after being Received from Senate)**

(5) S. 1526 Tribal Government Tax-Exempt Bond Fairness Act of 2003' [5]; and (6) S. 578 Tribal Government Amendments to the Homeland Security Act [6]. All Indian law, Congressional and Indian, becomes worthless unless Congress' plenary authority and Executive BIA contracts are enforced by Article III courts, supporting independent Indian Nation power without invidious presumptions.

CONCLUSION

Based upon the foregoing, Petitioners pray this Court to accept their Petition and permanently resolve these questions of national importance.

Respectfully submitted,

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[5] "Congress declares and affirms that–
Sec. 2 (1) The United States Constitution, United States Federal court decisions, and United States statutes recognize that Indian tribes are governments, retaining sovereign authority over their lands." Id.

[6] "(2) through statutes and treaties, Congress has recognized the inherent sovereignty of Indian tribal governments and the rights of Native people to self-determination and self-governance" Id.